

Board of Chiropractic Examiners

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**BOARD OF CHIROPRACTIC EXAMINERS
PUBLIC SESSION MINUTES**

July 30, 2009
State Capitol
Assembly Room 126
Sacramento, CA

Board Members Present

Frederick Lerner, D.C., Chair
Hugh Lubkin, D.C., Vice Chair
Francesco Columbu, D.C., Secretary
Martin Mariscal, Public Member
Jeffrey Steinhardt, D.C.
Richard Tyler, D.C.

Staff Present

Brian J. Stiger, Executive Officer
LaVonne Powell, Senior Staff Counsel
April Alameda, Associate Governmental Program Analyst
Lavella Matthews, Associate Governmental Program Analyst
Tammi Pitto, Staff Services Analyst
Valerie James, Office Technician

Call to Order

Dr. Lerner called the meeting to order at 8:38 a.m.

Roll Call

Dr. Columbu called the roll. All members were present.

Chair's Report

Dr. Lerner gave the Chair's Report.

Approval of Minutes

May 21, 2009 Board Meeting

MOTION: DR. TYLER MOVED TO APPROVE THE MAY 21, 2009 MINUTES

SECOND: DR. STEINHARDT SECONDED THE MOTION

VOTE: 6-0

MOTION CARRIED

Public Comment

None

Board Member training on the Bagley-Keene Open Meetings Act and other relevant laws

Ms. Powell discussed Assembly Bill 1494, which is in enrollment right now. The analysis talks about bringing the Bagley-Keene Open Meeting Act into conformity with the Brown Act in regards to serial meetings. This is consistent with prior training provided regarding not having serial meetings.

Executive Officer's Report

Mr. Stiger gave the Executive Officer's Report, the topics were Administration, Budget, Licensing, and Enforcement.

Mr. Marsical, Dr. Lerner, Dr. Steinhardt, Mr. Stiger, and Ms. Powell had discussion on the licensing statistics for satellite offices.

Mr. Stiger, Dr. Lerner, Dr. Lubkin, Ms. Powell, Dr. Steinhardt, and Mr. Mariscal had discussion on the enforcement statistics.

Dr. Lerner recommended that the Enforcement Committee develop something as part of an ongoing agenda, working with the Executive Officer on accountability, and apprising the Board on how well we are doing on our enforcement cases.

Ratification of Approved License Applications

MOTION: DR. TYLER MOVED TO RATIFY THE APPROVED LICENSE APPLICATIONS

SECOND: DR. COLUMBU SECONDED THE MOTION

VOTE: 6-0

MOTION CARRIED

The Board ratified the attached list of approved license applications incorporated herein (Attachment A).

Discussion

None

Ratification of Approved Continuing Education Providers

MOTION: DR. COLUMBU MOVED TO RATIFY THE APPROVED CONTINUING EDUCATION PROVIDER

SECOND: DR. TYLER SECONDED THE MOTION

VOTE: 5-0-1

MOTION CARRIED

The Board ratified the attached list of approved continuing education providers incorporated herein (Attachment B).

Discussion

None

Ratification of Denied License Applications in Which the Applicants Did Not Request a Hearing

None

Discussion

None

Recommendation to Waive Two Year Requirement to Restore a Cancelled License

MOTION: DR. STEINHARDT MOVED TO RATIFY THE RECOMMENDATION TO WAIVE TWO YEAR REQUIREMENT TO RESTORE A CANCELLED LICENSE

SECOND: DR. LUBKIN SECONDED THE MOTION

VOTE: 6-0

MOTION CARRIED

The Board ratified the attached list of applications in which the applicants request to waive the two year requirement to restore a cancelled license incorporated herein (Attachment C).

Discussion

None

Report from the Continuing Education Committee

Dr. Lubkin provided an update from the Continuing Education Committee.

Report from the Enforcement Committee

Dr. Lubkin provided an update from the Enforcement Committee. The committee recommended and amendment to California Code of Regulations Section 314 re: Licensees Responsibility to Report Law Violators.

Mr. Mariscal commented on the recommendation to clarify and the purpose of this change.

MOTION: DR. LUBKIN MOVED TO ADOPT THE PROPOSED AMEDMENT TO CALIFORNIA CODE OF REGULATIONS SECTION 314 REGARDING LAW VIOLATORS TO STRIKE OUT THE WORDS SECRETARY OR ANY MEMBER OF THE BOARD AND REPLACE WITH EXECUTIVE OFFICER OR HIS/HER DESIGNEE

SECOND: DR. STEINHARDT SECONDED THE MOTION

VOTE: 6-0

MOTION CARRIED

Report from the Licensing Committee

Dr. Steinhardt provided an update from the Licensing Committee.

Legislative Update

A. SB 1441 (Ridley-Thomas)

Mr. Stiger updated the Board regarding the Board's participation in the Committee created by SB 1441.

B. Proposed Fee Increase

Dr. Lerner discussed the Proposed Fee Increase and recommended simplifying the bill.

Mr. Stiger, Dr. Steinhardt, Dr. Lerner, and Dr. Lubkin discussed the Proposed Fee Increase.

**MOTION: DR. LERNER MOVED TO REDUCE THE PROPOSED LANGUAGE JUST TO THE
LICENSE RENEWAL FEE INCREASE TO \$200.00**

SECOND: DR. LUBKIN SECONDED THE MOTION

VOTE: 6-0

MOTION CARRIED

Public Comment

Dr. Charles Davis gave public comment in support of reducing the proposed language to only the license renewal fee.

C. AB 361 (Lowenthal)

Mr. Stiger discussed AB 361. The Board is continuing their support position.

D. AB 721 (Nava)

This bill was defeated in committee.

E. AB 877 (Emmerson)

This bill was defeated in committee.

F. SB 389 (Negrette-McCleod)

This bill was defeated in committee, however will become a 2 year bill.

G. SB 638 (Negrette-McCleod)

This bill was defeated in committee, however will become a 2 year bill.

H. SB 674 (Negrette-McCleod)

Mr. Stiger, Dr. Lerner, Dr. Tyler, and Ms. Powell discussed SB 674. The Board is continuing their support position.

I. SB 762 (Aanestad)

This bill is passed and signed by the Governor.

J. SB 820 (Negrette-McCleod)

Mr. Stiger discussed SB 820. Since this bill does not affect our board, the Board has no need to take a position.

K. Any other legislative bills of interest to the Board

None

Proposed Regulations

A. Manipulation Under Anesthesia

Mr. Stiger provided an update and proposed amended language to the second 15 day comment period.

There was discussion between Dr. Lerner, Ms. Powell, Dr. Tyler, Dr. Lubkin, Dr. Steinhardt, regarding the proposed amended language.

MOTION: DR. LERNER MOVED TO ADOPT THE THIRD 15 DAY COMMENT PERIOD LANGUAGE AND DELEGATE TO THE EXECUTIVE OFFICER TO MAKE ANY NON-SUBSTANTIVE TECHNICAL CHANGES

SECOND: DR. COLUMBU SECONDED THE MOTION

VOTE: 6-0

MOTION CARRIED

B. Continuing Education

Dr. Lerner provided comments and went over the proposed amended language.

MOTION: DR. LERNER MOVED TO AMEND THE CONTINUING EDUCATION REGULATION WITH THE PROPOSED LANGUAGE HANDOUT DATED JULY 30, 2009

SECOND: DR. LUBKIN SECONDED THE MOTION

VOTE: 6-0

MOTION CARRIED

Kendra Holloway gave public comment and suggestions regarding section 354.5 & 355 of the proposed amended language.

Ms. Powell recommended a change in section 356 to provide a clear introduction regarding what is required.

Mr. Mariscal asked if there is a history of licensees disputing mandatory hours at the time of licensure renewal.

Mr. Mariscal, Dr. Lerner, Ms. Powell, Mr. Stiger, Dr. Steinhardt, Dr. Tyler, and Dr. Columbu, discussed mandatory adjustive technique.

Kristine Shultz gave public comment opposing non-mandatory categories.

Dr. Charles Davis gave public comment supporting non-mandatory categories.

Ms. Debbie Snow gave public comment opposing non-mandatory categories.

Dr. Bill Mecker gave public comment supporting non-mandatory categories.

Dr. Mark Brown gave public comment supporting non-mandatory categories.

Dr. Lubkin stated on page 7, number 5, 357(a) should actually be 357(b).

Mr. Mariscal recommended a change on page 7, number 6.

Ms. Powell recommended striking the last sentence of number 6 on page 7.

Kendra Holloway, Ms. Powell, Mr. Stiger and Dr. Lerner discussed the differences between a course and convention, and what is a fair agreement on what is a course.

Kendra Holloway commented on page 7, that number 3, 4, 5, and 6 are not criteria for approval.

Ms. Powell suggested changing numbers 3, 4, 5, and 6 to (d), (e), (f), and (g).

Kendra Holloway commented that record keeping of attendance should be left up to the provider.

Ms. Powell recommended a minor change to 357.1.

Mr. Mariscal and Ms. Powell discussed 357.1 (e), (f) and (i).

Dr. McCallister commented that 357.1 c needed consistency in regards to the under penalty of perjury statement.

Ms. Powell recommended a change to 358.8.

Dr. Lerner stated the medical profession allows CE credits for researchers; we should take a look at those regulations.

Dr. George Casey asked for clarification on 358.3 in regards to the definition of core curriculum.

Dr. Lerner responded that core curriculum is defined in the Initiative Act.

Dr. Mecker, Dr. Lubkin, Dr. Lerner and Mr. Mariscal discussed credit hours versus clock hours, and chiropractic research.

Dr. Steinhardt and Dr. Lerner discussed changing year of licensure to renewal period as a point of clarification.

Ms. Powell recommended a change to 359.

Mr. Mariscal discussed 359.

MOTION: DR. LERNER MOVED TO MAKE A FRIENDLY AMENDMENT TO PREVIOUS MOTION, ADOPT THE CONTINUING EDUCATION REGULATION WITH THE PROPOSED LANGUAGE HANDOUT DATED JULY 30, 2009, EXCEPT THE MANDATORY CATEGORIES

SECOND: DR. LUBKIN SECONDED THE MOTION

VOTE: 6-0

MOTION CARRIED

MOTION: DR. LUBKIN MOVED TO ELIMINATE ALL CATEGORIES

SECOND: DR. COLUMBU SECONDED THE MOTION

VOTE: 3-3

MOTION DOES NOT CARRY

Discussion

Dr. Lubkin, Dr. Columbu, and Dr. Lerner provided comment in opposition of mandatory categories.

Dr. Tyler and Dr. Steinhardt provided comment in support of mandatory categories.

Ms. Debbie Snow gave public comment in support of mandatory categories.

MOTION: MR. MARISCAL MOVED MAINTAIN MANDATORY CATEGORIES, ELMINATING CATEGORIES 1 & 2, REQUIRING 6 TOTAL HOURS, 2 IN CATEGORY 13 AND 4 IN CATEGORIES 3, 5 OR 12

SECOND: DR. STEINHARDT SECONDED THE MOTION

VOTE: 6-0

MOTION CARRIED

C. Recognition of Chiropractic Specialties

Mr. Stiger provided an update and proposed suggested responses from staff to the comments from the public meeting on March 26, 2009.

MOTION: DR. LERNER MOVED TO ACCEPT ALL THE STAFF'S RESPONSES TO THE MARCH 26, 2009 COMMENTS

SECOND: DR. COLUMBU SECONDED THE MOTION

VOTE: 6-0

MOTION CARRIED

MOTION: DR. LERNER MOVED TO ADPOT THE MODIFIED LANGUAGE AND SEND OUT FOR ANOTHER 15 DAY COMMENT PERIOD

SECOND: DR. LUBKIN SECONDED THE MOTION

VOTE: 6-0

MOTION CARRIED

Board Recognition

Dr. Lerner announced the Board planned to honor Judge James Duvaras, however, will table this item to a future meeting when Judge Duvaras can attend.

Public Comment

None

Future Agenda Items

None

Hearings re: Petition for Reinstatement of Revoked License

Administrative Law Judge Catherine B. Frink presided over and Deputy Attorney General Tom Rinaldi appeared on behalf of the people of the State of California on the following hearings.

- Bruce B. Figoten

Hearings re: Petition for Modification of Probationary License

Administrative Law Judge Catherine B. Frink presided over and Deputy Attorney General Tom Rinaldi appeared on behalf of the people of the State of California on the following hearings.

- Robert Privratsky, D.C.
- Thuan M. Luu, D.C.

Closed Session

Following oral testimonies, the Board went into closed session for deliberation and determinations of Petitioners.

Adjournment

Dr. Lerner adjourned the public meeting at 5:16 p.m.

Attachment A

Approval By Ratification of Formerly Approved License Applications
May 1, 2009 – June 30, 2009

Name (First, Middle, Last)	Date Issued	DC#
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Sarah
Elizabeth
Coniglio
5/1/2009
31263

Ernesto

Escudero
5/1/2009
31264

Collan
Lee
Koeppen
5/1/2009
31265

Michael
Scott
McAllister
5/1/2009
31266

Touba

Pakdel-Nabati
5/11/2009
31267

Raquel
Graciela
Palazzolo
5/11/2009
31268

Leo

Uemura
5/11/2009
31269

Jason
Wade
Reinhold
5/15/2009
31270

Malcolm

Warren
5/15/2009

Attachment B

Ratification of Formerly Approved Continuing Education Providers

Continuing Education Providers

Date Approved

- **JTech Medical**

05/19/2009

Attachment C

Recommendation to Waive Two Year Requirement
on Restoration of a Cancelled License

Name (Last, First MI)	License No.	Cancellation Date
Callahan, Jeff	17043	08/31/2008
Cloutier, Thomas	22629	09/30/2008
Goldbeck, Donald	20603	11/30/2008